

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT: Sharon L. Morris, R.N., and Dean E. Morris  
DATE: October 24, 1996  
SERIAL NO: 08/286,413 GROUP ART UNIT: 2111  
FILED: August 5, 1994 EXAMINER: R. Gibson  
FOR: "Automatic Surgical Sponge Counter and Blood Loss Determination System"

ATTORNEY DOCKET NO: A94087US (51929/1)

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DECLARATION OF KEN NEWGARD, M.D. UNDER 37 C.F.R. § 1.132

Commissioner of Patents  
and Trademarks  
Washington, D.C. 20231

Dear Sirs:

I, the undersigned, hereby declare that I am familiar with the above-referenced invention as claimed in the claims presented in the Rule 116 Response dated September 24, 1996 filed in the above-referenced patent application.

I am a physician who practices in the area of Anesthesia. I have been an Anesthesiologist for 15 years and have been involved in at least 8000 operations. I am familiar with the invention of Sharon L. Morris, RN mentioned above. In my professional opinion, this device solves the problem of accurate and instantaneous calculation of Estimated Blood Loss contained in sponges during surgical procedures.

This is the only device that I am aware of that automatically computes EBL without manual calculation and weighing of sponges by nurses. In addition, this device, as described in the patent application, should perform this calculation with a high degree of accuracy. This can be important in cases involving small children or infants and in heavy blood loss procedures which use large numbers of soiled sponges.

The undersigned hereby declares that all statements made of his own knowledge are true and that all statements made on information and belief are believed to be true, and that this statement is made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under § 1001 of Title 18 of the United States Code

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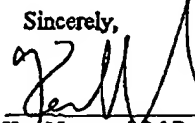
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and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

12/30/96  
Date

Sincerely,  
  
Ken Newgard, M.D.

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KEN NEWGARD M.D., PC  
108 E. BLUEGRASS  
KALISPELL MT. 59901  
406 755-6221

1/3/97

## TO WHOM IT MAY CONCERN:

I have reviewed the patent application and have discussed the sponge counter and blood loss determination system with Sharon and Dean Morris. I have determined that these items would be of great benefit to those of us who work in the operating room. I would highly recommend that they be put into production as soon as possible.

Lost sponges and blood loss determination continue to be problems in the operating room. Any help we can get in these areas would be of great benefit to patients.

Sincerely,

  
Ken Newgard M.D.

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**CURRICULUM VITAE  
KEN NEWGARD M.D.**

**DATE OF BIRTH:** June 8, 1951  
**PLACE OF BIRTH:** San Francisco  
**CITIZENSHIP:** United States  
**SOCIAL SECURITY:** 553-68-0577  
**MARITAL STATUS:** Married with two children

**HOME ADDRESS:** 1931 Beverly Glen Drive  
Santa Ana, California  
92705-3301  
H(714) 838-6788  
W(714) 953-3333

**EDUCATION:** 1969-1973 University of California, Davis  
B.S. Summa Cum Laude  
College Medal for most outstanding graduate  
1973-1978 M.D. Stanford University Medical School

**HONOR SOCIETY:** Phi Kappa Phi Science Foundation  
Awarded the National Scholarship Foundation  
Scholarship for Postgraduate Education

**POST GRADUATE EDUCATION:**

Internship: 1978-1979, Stanford University,  
Internal Medicine

Residency: 1979-1981, Stanford University,  
Anesthesiology

Fellowship: July 1981-January 1982, Toronto  
University Hospitals, Toronto, Canada

**BOARD CERTIFICATION:**

1984, American Board of Anesthesiology

**PROFESSIONAL EXPERIENCE**

1979-1981 Member of the Stanford Critical Care  
Transport Team for Adults and Infants

April - June 1981, supervised residents in  
cardiovascular anesthesia at Stanford Hospital

April 1981, conducted anesthesia for the first and  
second heart/lung transplants at Stanford Hospital

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1982-1987, Clinical Faculty, Stanford University Hospital

1982-1985, Staff Anesthesiologist at St. Agnes Medical Center, Fresno, California

1985-1987 Staff Anesthesiologist at the Palo Alto Medical Clinic, Palo Alto, California

1987-present, Staff Anesthesiologist at Western Medical Center, Santa Ana, California

1989-present, Operating Room Scheduling Anesthesiologist

1991-1995, Vice Chairman Department of Anesthesia

1991-1996, Chairman Operating Room Committee

1994-present, Staff Member, Kalispell Regional Hospital

1995-1996, Chairman Department of Anesthesia

1995-1996, Medical Executive Committee

My current practice includes all disciplines of anesthesia including pediatrics, cardiovascular, trauma, neuro, outpatient and obstetrics.

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PROFESSIONAL SOCIETIES:

American Society of Anesthesiology  
Montana Society of Anesthesiology

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